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New York, New York 10022
(212) 223-0400

Attorneys for Petitioners
National Union Fire Insurance Company of Pittsburgh, Pa.
and American International South Insurance Company

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

NATIONAL UNION FIRE INSURANCE COMPANY OF
PITTSBURGH, PA. and AMERICAN INTERNATIONAL
SOUTH INSURANCE COMPANY,

Petitioners,

- and -

THE UNITED COMPANY,

Respondent.

Case No.: 08-CV-3147 (MGC)

**DECLARATION
IN FURTHER SUPPORT OF
MOTION TO COMPEL
ARBITRATION**

STATE OF NEW YORK,
COUNTY OF NEW YORK.

MICHAEL S. DAVIS, pursuant to 28 U.S.C. § 1746, declares:

1. I am an attorney admitted to practice before this Court and associated with Zeichner Ellman & Krause LLP, attorneys for Petitioner National Union Fire Insurance Company of Pittsburgh, Pa. and American International South Insurance Company (collectively, the "AIG Companies"), on behalf of themselves and each of the related insurers that provided coverage to Respondent. I make this Declaration in further

support of the AIG Companies' request for an Order to compel Respondent to arbitrate the disputes asserted in the Complaint.¹

2. Annexed hereto are the following documents:

Exhibit 1 Letter dated August 28, 2007 from Jack W. Wiley of the Office of Insurance of the Commonwealth of .

Exhibit 2 Policy Declarations Sheet for Policy WC 720—94-31

Exhibit 3 Coverage Notifications Forms filed with the United States Dept. of Labor

Exhibit 4 Notices of Policy Termination Filed in Kentucky

3. I declare under penalties of perjury that the foregoing is true and

correct.

Dated: April 8, 2008


MICHAEL S. DAVIS

¹ Capitalized terms herein have the defined same meaning as set forth in the Petition.

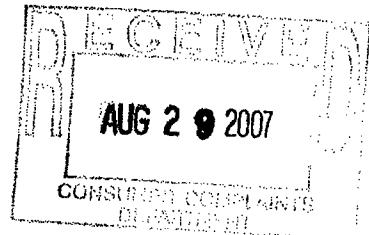
EXHIBIT 1



Ernie Fletcher
Governor

Teresa J. Hill
Secretary

Commonwealth of Kentucky
Environmental and Public Protection Cabinet
Office of Insurance
Consumer Protection and Education Division
P.O. Box 517
Frankfort, Kentucky 40602
(502) 564-6034
(800) 595-6053
Fax (502) 564-6090
<http://dol.ppr.ky.gov>



August 28, 2007

Thomas D. Griffin
P.O. Box 1280
Bristol, VA 24203 - 1280

Don SMY

RE: Our File No. 2007JWW213

Dear Mr. Griffin:

Enclosed is a copy of the insurance company's response to the above referenced complaint. Our investigation indicates that the insurance company has not violated any insurance laws. The final answer to your complaint depends on a legal or factual determination and is beyond our statutory authority. According to 806 KAR 2:050, Section 2, legal or factual determinations can be made only by the courts.

If you have additional questions or need clarification, please contact me.

Sincerely,

Jack W Wiley
Supervisor - Property & Casualty
Jack.Wiley@ky.gov

JWW/dd
Enclosure
Cc:
Tahaiwa Quarless, Manager
American International South Insurance Company
Consumer Complaints
175 Water Street, 18th Floor
New York, NY 10038

EXHIBIT 2

AMERICAN INTERNATIONAL SOUTH INSURANCE COMPANY
18139

AGENT NUMBER

11657-0000

POLICY NUMBER

WC 720-94-31

054-21-1106-00

STATE OF PENNSYLVANIA
MAILING ADDRESS THE UNITED COMPANY
IDENTIFICATION NO. 1005 GLENWAY AVENUE

THE UNITED COMPANY
1005 GLENWAY AVENUE
BRISTOL, VA 24201-3473

SEE NAME AND ADDRESS SCHEDULE - WC990610

ID#



Member Companies of
American International Group

EXECUTIVE OFFICES:
70 PINE STREET, NEW YORK, N.Y. 10270

PRODUCER'S NAME AND ADDRESS

ACORDIA OF WV-BLUEFIELD
320 FEDERAL ST
BLUEFIELD, WV 24701-3006

INSURED IS
CORPORATION

PREVIOUS POLICY NUMBER
NEW

OTHER WORKPLACES NOT SHOWN ABOVE: SEE NAME AND ADDRESS SCHEDULE - WC990610

ITEM 2	POLICY PERIOD 12:01 A.M. standard time at the insured's mailing address	FROM <u>11/01/06</u>	TO <u>11/01/07</u>
ITEM 3	A. Workers Compensation Insurance: Part One of the policy applies to the Workers Compensation Law of the states listed here:		
	KY VA		
	B. Employers Liability Insurance: Part Two of the policy applies to the work in each state listed in Item 3.A. The limits of our liability under Part Two are:		
	Bodily Injury by Accident \$ <u>1,000,000</u> each accident Bodily Injury by Disease \$ <u>1,000,000</u> policy limit Bodily Injury by Disease \$ <u>1,000,000</u> each employee		
	C. Other States Insurance: Part Three of the policy applies to the states, if any, listed here: AK AR AZ CO CT DC GA HI IA ID IL IN KS LA MD MO MS NC NE NH NM NV OK OR PA RI SC SD TN TX UT WI		
ITEM 4	The premium for this policy will be determined by our Manuals of Rules, Classifications, Rates and Rating Plans. All information required below is subject to verification and change by audit.		

Classifications	Code Number	Estimated Total Remuneration <input checked="" type="checkbox"/> Annual <input type="checkbox"/> 3 Year	Rate Per \$100 Of Remuneration	Estimated Premium <input checked="" type="checkbox"/> Annual <input type="checkbox"/> 3 Year
				\$124,293

SEE EXTENSION OF INFORMATION PAGE - WC7754
TAXES/ASSESSMENTS/SURCHARGES

EXPENSE CONSTANT (EXCEPT WHERE APPLICABLE BY STATE) \$160 VA

MINIMUM PREMIUM \$750 KY TOTAL ESTIMATED PREMIUM \$2,052,835

If indicated below, interim adjustments of premium shall be made:

Semi-Annually Quarterly Monthly

DEPOSIT PREMIUM

\$2,052,835

ENDORSEMENTS (FORM NUMBER)

SEE ATTACHED FORM SCHEDULE - WC990612

11/28/06 CLEVELAND

21

Issue Date
39967

Issuing Office

Authorized Representative

WC 00 00 01

Archive Copy

EXHIBIT 3

1. Mine Operator: The United company
2. Address: 1005 Glenway Avenue, Bristol, VA 24203
Street City County State Zip

3. Policy Number: WC 720-94-31 4. Policy Dates: a. Beginning 11/01/06 b. Expiration 11/01/07

Report is made of this issue of approved form of policy and endorsement under the Federal Coal Mine Health and Safety Act of 1969, as amended.

5. Coverage is provided for operations in the following States: Kentucky and Virginia

6. Insurance Carrier: American International South Insurance Company DO NOT WRITE HERE

7. Address: 1375 E. Ninth Street, Cleveland, OH 44114

OWCP No.
Cancel Date

8. Authorized Signature for Carrier:

Vincent Catapano

Completed card should be forwarded to U.S. Department of Labor, Office of Workmen's Compensation, Washington, D.C. 20210
FORM CM 921

Mailed 11-16-06

1. Mine Operator: Wellmore Coal Company
 2. Address: 1005 Glenway Avenue, Bristol, VA 24203

Street	City	County	State	Zip
WC 720-94-31				
4. Policy Number:	4. Policy Dates: a. Beginning	b. Expiration		
	11/01/06	11/01/07		

Report is made of this issue of approved form of policy and endorsement under the Federal Coal Mine Health and Safety Act of 1969, as amended.

5. Coverage is provided for operations in the following States: Kentucky and Virginia

6. Insurance Carrier: American International South Insurance Company DO NOT WRITE HERE

7. Address: 1375 E. Ninth Street, Cleveland, OH 44114

8. Authorized Signature for Carrier:

Vincent Catapano
OWCP No.
Given Date

Completed card should be forwarded to U.S. Department of Labor, Office of Workmen's Compensation, Washington, D.C. 20210
FORM CM 921

Mailed
11-16-04

1. Mine Operator: Sapphire Coal Company	2. Address: 7727 Highway Street	1N, Whitesburg, KY 41858	City	County	State	Zip
3. Policy Number: WC 720-94-31	4. Policy Dates:	a. Beginning 11/01/06	b. Expiration 11/01/07			

Report is made of this issue of approved form of policy and endorsement under the Federal Coal Mine Health and Safety Act of 1969, as amended.

5. Coverage is provided for operations in the following States: **Kentucky and Virginia**

6. Insurance Carrier: **American International South Insurance Company** **DO NOT WRITE HERE**

7. Address: **1375 E. Ninth Street, Cleveland, OH 44114**

OWCP No.
Cancel Date

8. Authorized Signature for Carrier: *Vincent Catapano*

Completed card should be forwarded to U.S. Department of Labor, Office of Workmen's Compensation, Washington, D.C. 20210
FORM CM 921

Mailed
11-16-06

EXHIBIT 4

WCI-2
Rev. 12/94DEPARTMENT OF WORKERS' CLAIMS
1270 Louisville Road
Frankfort, Kentucky 40601

NOTICE OF POLICY CHANGE OR TERMINATION

NO TERMINATION OF COVERAGE SHALL TAKE EFFECT GREATER THAN TEN (10) DAYS PRIOR TO RECEIPT
 BY THE COMMISSIONER UNLESS THE EMPLOYER HAS OBTAINED OTHER INSURANCE AND THE
 COMMISSIONER HAS BEEN NOTIFIED BY THE INSURER ASSUMING THE RISK...COMMISSIONER'S POLICY
 PROHIBITS CANCELLING MORE THAN THREE IN ADVANCE...

THIS IS TO CERTIFY THAT:

FEIN 54-2024819

1. Name of Insured Sapphire Coal Company; DBA _____
Name of corporation or owners(s)Nature of Business Underground Coal Mining; Phone No. _____Business Address: Route 7, 1 Mile North of Isom
(Street, RFD or Road) (P.O. Box No.)

<u>Whitesburg</u> <small>(City)</small>	<u>KY</u> <small>(State)</small>	<u>41858</u> <small>(Zip Code)</small>
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2. Name of Insurance Carrier American International South Insurance Company
(NAME OF INSURER MUST BE THE SAME AS ON WCI-1)Address 1375 East Ninth Street Phone No. (216) 479-8910Cleveland, OH 441143. The Insurer hereby notifies the Commissioner as of 07/28/07 (date).*THIS (Policy #) WC 720-94-31 IS:(a) x Cancelled in entirely (Include in Item 1 above all business names covered under this policy
 Use attachment if needed.) _____(b) _____ The name of insured is amended as follows:
 (PLEASE ATTACH FORM WCI-1 SHOWING NEW NAME) _____

(c) _____ The address of insured is amended as follows:

1. Location(s) added _____

2. Location(s) deleted _____

3. Address changed to _____
(Use attachment if needed)

(d) _____ Other _____

(IF CARRIER NAME CHANGE, PLEASE ATTACH FORM WCI-1)

08/09/07

(Date)

SIGNATURE OF UNDERWRITER

EACH SECTION MUST BE COMPLETED IN ENTIRELY
 AND BEAR AUTHORIZED SIGNATURE TO BE ACCEPTED FOR PROCESSING.

WCI-2
Rev. 12/94DEPARTMENT OF WORKERS' CLAIMS
1270 Louisville Road
Frankfort, Kentucky 40601

NOTICE OF POLICY CHANGE OR TERMINATION

NO TERMINATION OF COVERAGE SHALL TAKE EFFECT GREATER THAN TEN (10) DAYS PRIOR TO RECEIPT BY THE COMMISSIONER UNLESS THE EMPLOYER HAS OBTAINED OTHER INSURANCE AND THE COMMISSIONER HAS BEEN NOTIFIED BY THE INSURER ASSUMING THE RISK...COMMISSIONER'S POLICY PROHIBITS CANCELING MORE THAN THREE IN ADVANCE...

THIS IS TO CERTIFY THAT:

FEIN 54-2024819

1. Name of Insured Sapphire Coal Company; DBA _____

(Name of corporation or owners(s))

Nature of Business Underground Coal Mining; Phone No. _____Business Address: Sandlick Mine, Route 931
(Street, RFD or Road) (P.O. Box No.)

<u>Whitesburg</u> (City)	<u>KY</u> (County)	<u>41858</u> (State) (Zip Code)
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2. Name of Insurance Carrier American International South Insurance Company
(NAME OF INSURER MUST BE THE SAME AS ON WCI-1)Address 1375 East Ninth Street Phone No. (216) 479-8910Cleveland, OH 441143. The Insurer hereby notifies the Commissioner as of 07/26/07 (date).*THIS (Policy #) WC 720-94-31 IS:(a) Cancelled in entirely (Include in Item 1 above all business names covered under this policy
Use attachment if needed.)(b) _____ The name of insured is amended as follows:
(PLEASE ATTACH FORM WCI-1 SHOWING NEW NAME)

(c) _____ The address of insured is amended as follows:

1. Location(s) added _____

2. Location(s) deleted _____

3. Address changed to _____
(Use attachment if needed)

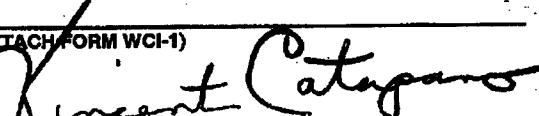
(d) _____ Other

(IF CARRIER NAME CHANGE, PLEASE ATTACH FORM WCI-1)

08/08/07

(Date)

SIGNATURE OF UNDERWRITER



EACH SECTION MUST BE COMPLETED IN ENTIRELY
AND BEAR AUTHORIZED SIGNATURE TO BE ACCEPTED FOR PROCESSING.

WCI-2
Rev. 12/94DEPARTMENT OF WORKERS' CLAIMS
1270 Louisville Road
Frankfort, Kentucky 40601

NOTICE OF POLICY CHANGE OR TERMINATION

NO TERMINATION OF COVERAGE SHALL TAKE EFFECT GREATER THAN TEN (10) DAYS PRIOR TO RECEIPT BY THE COMMISSIONER UNLESS THE EMPLOYER HAS OBTAINED OTHER INSURANCE AND THE COMMISSIONER HAS BEEN NOTIFIED BY THE INSURER ASSUMING THE RISK...COMMISSIONER'S POLICY PROHIBITS CANCELLING MORE THAN THREE IN ADVANCE...

THIS IS TO CERTIFY THAT:

FEIN 54-2024819

1. Name of Insured Sapphire Coal Company; DBA _____
*Name of corporation or owners(s)*Nature of Business Underground Coal Mining; Phone No. _____Business Address: Poly Mine, Route 931
(Street, RFD or Road) (P.O. Box No.)

<u>Whitesburg</u> <i>(City)</i>	<u>KY</u> <i>(County)</i>	<u>41656</u> <i>(State)</i>	<u>(Zip Code)</u>
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2. Name of Insurance Carrier American International South Insurance Company
*(NAME OF INSURER MUST BE THE SAME AS ON WCI-1)*Address 1375 East Ninth Street Phone No. (216) 479-8910Cleveland, OH 441143. The Insurer hereby notifies the Commissioner as of 07/28/07 (date),*THIS (Policy #) WC 720-94-31 IS:(a) X Cancelled in entirely (include in Item 1 above all business names covered under this policy
Use attachment if needed.)(b) _____ The name of insured is amended as follows:
(PLEASE ATTACH FORM WCI-1 SHOWING NEW NAME)

(c) _____ The address of insured is amended as follows:

1. Location(s) added _____

2. Location(s) deleted _____

3. Address changed to _____
(Use attachment if needed)

(d) _____ Other _____

(IF CARRIER NAME CHANGE, PLEASE ATTACH FORM WCI-1)

08/09/07

(Date)

SIGNATURE OF UNDERWRITER

*Ronald Catapano*EACH SECTION MUST BE COMPLETED IN ENTIRELY
AND BEAR AUTHORIZED SIGNATURE TO BE ACCEPTED FOR PROCESSING.

WCI-2
Rev. 12/94DEPARTMENT OF WORKERS' CLAIMS
1270 Louisville Road
Frankfort, Kentucky 40601

NOTICE OF POLICY CHANGE OR TERMINATION

NO TERMINATION OF COVERAGE SHALL TAKE EFFECT GREATER THAN TEN (10) DAYS PRIOR TO RECEIPT
 BY THE COMMISSIONER UNLESS THE EMPLOYER HAS OBTAINED OTHER INSURANCE AND THE
 COMMISSIONER HAS BEEN NOTIFIED BY THE INSURER ASSUMING THE RISK...COMMISSIONER'S POLICY
 PROHIBITS CANCELLING MORE THAN THREE IN ADVANCE...

THIS IS TO CERTIFY THAT:

FEIN 54-2024819

1. Name of Insured Sapphire Coal Company; DBA _____
*Name of corporation or owners(s)*Nature of Business Underground Coal Mining; Phone No. _____Business Address: 7727 Highway 931N
(Street, RFD or Road) (P.O. Box No.)

<u>Whitesburg</u> <i>(City)</i>	<u>KY</u> <i>(County)</i>	<u>41858</u> <i>(State)</i> (Zip Code)
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2. Name of Insurance Carrier American International South Insurance Company
*(NAME OF INSURER MUST BE THE SAME AS ON WCI-1)*Address 1375 East Ninth Street Phone No. (216) 479-8910Cleveland, OH 441143. The insurer hereby notifies the Commissioner as of 07/28/07 (date),*THIS (Policy #) WC 720-94-31 IS:(a) Cancelled in entirely (Include in Item 1 above all business names covered under this policy
Use attachment if needed.) _____(b) _____ The name of insured is amended as follows:
(PLEASE ATTACH FORM WCI-1 SHOWING NEW NAME) _____

(c) _____ The address of insured is amended as follows:

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2. Location(s) deleted _____

3. Address changed to _____
(Use attachment if needed)

(d) _____ Other _____

(IF CARRIER NAME CHANGE, PLEASE ATTACH FORM WCI-1)

08/09/07

(Date)

SIGNATURE OF UNDERWRITER

*Ronald Catapano*EACH SECTION MUST BE COMPLETED IN ENTIRELY
 AND BEAR AUTHORIZED SIGNATURE TO BE ACCEPTED FOR PROCESSING.

WCI-2
Rev. 12/94DEPARTMENT OF WORKERS' CLAIMS
1270 Louieville Road
Frankfort, Kentucky 40601

NOTICE OF POLICY CHANGE OR TERMINATION

NO TERMINATION OF COVERAGE SHALL TAKE EFFECT GREATER THAN TEN (10) DAYS PRIOR TO RECEIPT BY THE COMMISSIONER UNLESS THE EMPLOYER HAS OBTAINED OTHER INSURANCE AND THE COMMISSIONER HAS BEEN NOTIFIED BY THE INSURER ASSUMING THE RISK...COMMISSIONER'S POLICY PROHIBITS CANCELING MORE THAN THREE IN ADVANCE...

THIS IS TO CERTIFY THAT:

FEIN 54-2024819

1. Name of Insured Sapphire Coal Company; DBA _____
*Name of corporation or owners(s)*Nature of Business Underground Coal Mining; Phone No. _____Business Address: 147 Big Blue Blvd.
(Street, RFD or Road) _____ (P.O. Box No.) _____

<u>Whitesburg</u> <i>(City)</i>	<u>KY</u> <i>(County)</i>	<u>41858</u> <i>(State)</i>	<u>(Zip Code)</u>
------------------------------------	------------------------------	--------------------------------	-------------------

2. Name of Insurance Carrier American International South Insurance Company
*(NAME OF INSURER MUST BE THE SAME AS ON WCI-1)*Address 1375 East Ninth Street Phone No. (216) 479-8910Cleveland, OH 441143. The Insurer hereby notifies the Commissioner as of 07/28/07 (date),*THIS (Policy #) WC 720-94-31 IS:(a) Cancelled in entirely (Include in Item 1 above all business names covered under this policy
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(PLEASE ATTACH FORM WCI-1 SHOWING NEW NAME) _____

(c) _____ The address of insured is amended as follows:

1. Location(s) added _____

2. Location(s) deleted _____

3. Address changed to _____
(Use attachment if needed)(d) _____ Other _____
(IF CARRIER NAME CHANGE, PLEASE ATTACH FORM WCI-1)08/09/07*(Date)*

SIGNATURE OF UNDERWRITER

EACH SECTION MUST BE COMPLETED IN ENTIRELY
AND BEAR AUTHORIZED SIGNATURE TO BE ACCEPTED FOR PROCESSING.

TRANSMISSION VERIFICATION REPORT

TIME : 08/09/2007 13:03
 NAME :
 FAX :
 TEL :
 SER. # : BROL5J377756

DATE, TIME	08/09 13:01
FAX NO./NAME	915025640916
DURATION	00:01:35
PAGE(S)	07
RESULT	OK
MODE	STANDARD ECM



1375 East 9th Street, 30th Floor, Cleveland, Ohio 44114

Date:	August 9, 2007	Pages (Including cover):	7
Name:	Regina Goettel	Kathy Merriner	
Company/Dept:		AIG Global Energy	
Location:	Kentucky	Cleveland, OH	
Fax Number:	502-564-0916	216-696-2842	
Phone Number:	502-564-5550 ext. 4564	216-479-8910	
Email Address		kathy.merriner@aig.com	

Attached are the WCI-2s for:

- Surface Minerals Company
- Sapphire Coal Company